



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7**

11201 Renner Boulevard
Lenexa, Kansas 66219

14 MAY 2015

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Article Number: 7014 1200 0000 6123 9514

Mr. Dennis Mailes
Plant Manager
Dyno Nobel, Inc.
Carthage Plant
17562 Gum Road
Carthage, Missouri 64836

RE: Dyno Nobel
Carthage, Missouri
RCRA Identification Number: MOD029719200

Dear Mr. Mailes:

Letter of Warning/Request for Information

On September 23-25, 2014, a representative of the U. S. Environmental Protection Agency (EPA) inspected your facility. The inspection was conducted under the authority of Section 3007 of the Resource Conservation and Recovery Act (RCRA).

My staff has reviewed the inspection report and your October 9, 2014, response to the Notice of Violation (NOV), and determined that violations of RCRA were documented. We are requesting additional information regarding your facility's compliance status. Enclosed is a list of violations, a list of questions and/or requested information, instructions to be used in providing your response, and various relevant EPA guidance documents. Please carefully read and follow these instructions. Your response to this request in accordance with the instructions is required by Section 3007 of RCRA and substantial penalties may result from not complying. Please note that the EPA reserves its right to pursue appropriate enforcement actions, including penalties, for violations discovered as a result of the inspection, regardless of whether the violations were subsequently corrected.



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Within thirty (30) calendar days of receiving this letter, please mail your response to: Edwin G. Buckner PE, AWMD/WEMM, U. S. Environmental Protection Agency, 11201 Renner Boulevard, Lenexa, Kansas, 66219. To request an extension of the time limit, follow the instructions in the enclosure. Please direct all questions concerning this letter to Mr. Buckner, of my staff, at 913-551-7621 or buckner.edwin@epa.gov.

Sincerely,



Donald Toensing
Chief

Waste Enforcement and Materials Management
Branch
Air and Waste Management Division

Enclosures (5)

cc: Ms. Nicole Eby, Missouri Department of Natural Resources
Ms. Amanda Coffey, Missouri Department of Natural Resources
Missouri Department of Natural Resources Southwest Regional Office

List of Violations
Dyno Nobel
Carthage, Missouri
RCRA Identification Number: MOD029719200

1. Dyno Nobel failed to label 4 boxes accumulating D003 hazardous waste in the Hazardous Waste Storage Magazine thus failing to meet the requirements of 40 CFR 262.34(a)(3) as incorporated by reference at 10 CSR 25-5.262(1).
2. Dyno Nobel failed to properly manage the following satellite accumulation containers thus failing to meet the requirements of 40 CFR 265.173(a) and (b) as incorporated by reference at 10 CSR 25-5.262(2)(C)3.
 - a. One pail of D002 waste at NAR Spent Acid Storage Tank was not labeled, dated, or closed.
 - b. One can of hazardous waste rags in the Paint Shop was not dated.
 - c. One container of hazardous waste solvent rags was not at or near the point of generation.
3. Dyno Nobel failed to make a hazardous waste determination on the following waste streams thus failing to meet the requirements of 40 CFR 262.11 as incorporated by reference at 10 CSR 25-5.262(1).
 - a. Acid Mix Tank Farm containment wastewater released to the ground.
 - b. Unknown containers inside 25-Warehouse.
 - c. CHUB leftover rework plastic wraps and paper towels disposed of in trash.
 - d. CHUB explosive contaminated wipes.
 - e. NG contaminated trash at point of generation (prior to cleaning).
 - f. Flo Gel House filters.
 - g. DSA sent for fertilizer use.
 - h. Two spills at CHUB oxidizer tank farm.
4. Dyno Nobel failed to update the emergency coordinators list in the RCRA contingency plan thus failing to meet the requirements of 40 CFR 265.52(d) as incorporated by reference at 10 CSR 25-5.262(1).
5. Dyno Nobel failed to keep on file a one-time LDR notice for RCRA excluded or exempted waste thus failing to meet the requirements of 40 CFR 268.7(a)(7) as incorporated by reference at 10 CSR 25.7.268(1).

6. Dyno Nobel accumulated, outside 25-Warehouse, one drum of D002 hazardous waste longer than 90 days thus failing to meet the requirements of 40 CFR 262.34(a) as incorporated by reference at 10 CSR 25-5.262(1).
7. Dyno Nobel accumulates spent nitric/sulfuric acid mixture in tanks numbered T501, T502, and T503 prior to transferring the spent mixture to a feed tank numbered either TK-011 or TK-027. Information obtained during the inspection is contradictory on the matter of the feed tank's designation. The feed tank provides spent acid mixture to the nitric acid recovery unit where it is reclaimed into 30 percent nitric acid, which is reused on site, and 70 percent sulfuric acid which is sent off site. The spent acid mixture is a hazardous waste, whether received from off site or generated on site, until it enters the nitric acid recovery unit. Dyno Nobel failed to manage these tanks as hazardous waste tanks in accordance with 40 CFR Part 265, Subpart J, thus failing to meet the requirements of 40 CFR 262.34(a)(1)(ii) as incorporated by reference at 10 CSR 25-5.262(1).

Requested Information
Dyno Nobel
Carthage, Missouri
RCRA Identification Number: MOD029719200

The October 30, 2014, response to the NOV issued at the end of the inspection adequately addressed violations identified in the NOV except for the following.

1. Denitrated sulfuric acid (DSA), unless otherwise exempted, is a D002 hazardous waste if disposed of. Use as an air pollution control chemical in a power plant and as a feed stock at a sulfuric acid manufacturing facility appear to meet the condition exempting the DSA from regulation as a hazardous waste. Using waste sulfuric acid as an ingredient in fertilizer manufacture is use constituting disposal and is therefore a prohibited means of disposal. Various EPA memoranda verify this interpretation (see enclosed). According to documents obtained during the September 23-25, 2014, inspection, Dyno Nobel has shipped at least 76 loads of DSA to Jayhawk Chemical, Galena, Kansas; USACO, Hamilton, Ohio; and Verdegaal Brothers, Hanford, California, for use in the manufacture of fertilizer. Provide documentation demonstrating how Dyno Nobel has ceased this disposal method.
2. Demonstrate that tanks T501, T502, T503, and TK-011 or TK-027 are meeting the requirements of 40 CFR Part 265, Subpart J. This shall include, but is not limited to, photographs of the tanks labeled with the words "hazardous waste" and equipped with proper secondary containment. This shall also include copies of daily inspection records, records demonstrating that spent acid has not accumulated in the tanks longer than 90 days, and the integrity assessment performed by a professional engineer.

3007 RESPONSE INSTRUCTIONS

- Identify the Person(s) responding to this request on your behalf.
- Address each numbered item separately, and precede each answer with the number of the item to which it responds.
- For each numbered item, identify all documents consulted, examined, or referred to in the preparation of the answer, or that contain information responsive to the requested item. Provide true, accurate, and legible copies of all such documents. (If information responsive to an item is available but there are no relevant source documents, you must still provide the information.)
- For each document provided, indicate on the document (or in some similar manner) the number of the item to which it responds.
- For each numbered item, identify all persons consulted in the preparation of the answer.
- For purposes of this request, the term "you" or "your" refers to the company, corporation and any officer, principal, agent employee, or any other person(s) associated in any capacity.
- If information responsive to a requested item is not in your possession, identify the person(s) from whom the information may be obtained.
- If information that is not known or available at the time you make your response later becomes known or available to you, you must supplement your response.
- If, at any time after you submit your response, you find that any part of the information you submitted is incomplete, false, or misrepresents the truth, you must notify the EPA immediately.
- You must provide the requested information even though you consider it confidential information or trade secrets. If you want to make a confidentiality claim covering part or all of the information submitted, identify the material with words such as "trade secret," "proprietary," or "company confidential."
- The EPA will disclose this information only to the extent and by the means described in 40 CFR Part 2, Subpart B., provided that it qualifies as confidential business information.
- A request for an extension to the time limit for responding must be in writing and must be postmarked within five (5) calendar days of receipt of this information request. Address it to the person identified in the cover letter to receive your response.
- Copies of the Code of Federal Regulations may be obtained from the U.S. Government Bookstores or on the Internet at www.epa.gov/epahome/cfr40.htm.
- This request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980.
- The EPA encourages you to conserve resources. Suggested methods include use of recycled paper, printing on both sides (duplex printing), and when possible submitting documents electronically (i.e., email or compact discs). If hard copy submittals are necessary, please do not submit documents in binders.

Not responding to this information request within the stated time limit and in accordance with these instructions may subject your facility to an enforcement action which could include the imposition of penalties of up to \$37,500 per violation, per day of continued noncompliance. Providing false, fictitious, or fraudulent statements or representations could lead to criminal penalties.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

AUGUST 9, 1988

Margaret R. Tribble
Legal Department
American Cyanamid Company
One Cyanamid Plaza
Wayne, NJ 07470

Dear Ms. Tribble:

This letter is in response to your July 14, 1988, request for additional clarification of the regulatory status of used sulfuric acid. I must reiterate that each generator must make his own determination regarding whether his secondary material is a solid waste. Assistance in making such determinations may be provided by the appropriate State authority or the EPA Regional Office. Please understand that in the case of used acid, very detailed information about the reactants, reaction mechanisms, and contamination of the used acid is necessary, as well as information regarding the secondary use. The following is general guidance on solid waste determinations for used acids.

If the secondary use of the acid has the same purpose as the primary use (e.g., once-used sulfuric acid from isoparaffinolefin alkylation can be directly reused in that or another alkylation reaction) then there may be a basis for claiming that the once-used sulfuric acid is "leftover, unreacted" catalyst. The RCRA regulations provide criteria and documentation requirements for such claims at 40 CFR 261.2(e) and (f). However, in other instances, e.g., sulfuric acid from chlorine dehydration is too dilute for reuse in that reaction, the acid may fit the definition of a spent material; that is, the used acid is too dilute for reuse in dehydration because it has been contaminated by water and as a result of contamination, can no longer serve the purpose for which it was produced without processing. (See Section 261.1(c)(1).) If the spent acid is then used to make fertilizer, it is a solid waste. Reuse of the spent acid as a fertilizer ingredient does not meet any of the exclusions in Section 261.2(e)(1) because paragraph (e)(2)(i) provides that secondary materials placed on the land remain solid waste. If, however, the spent acid is reused directly as an ingredient in a product not placed on the land, not burned, and the other conditions in Section 261.2(e) are met, then the material would not be a solid waste.

Please contact Mike Petruska at (202) 475-9888 if you have additional questions in this area.

Sincerely,

Devereaux Barnes, Director
Characterization and Assessment Division

FaxBack # 11361

9493.1985(03)

NOV 25 1985

Ms. G. Mahoney
Environmental Engineer
Bridgeport Brass Corporation
P.O. Box 51519
Indianapolis, Indiana 46251

Dear Ms. Mahoney:

This letter is in response to your request for an interpretation of the January 4, 1985 hazardous waste regulations, concerning the regulatory status of two characteristically hazardous sludges that are recycled. (The specific examples you are interested in are described in your letter dated August 14, 1985, and in our telephone conversation.) In your letter, you indicate that both of these materials are recycled in such a manner that you believe they are not solid wastes and therefore not subject to the hazardous waste regulations under RCRA. However, based on the January 4 rules, one of the materials--the zinc oxide dust--would be defined as a solid waste and would be regulated under the hazardous waste regulations. The remainder of the letter will describe how these materials are covered under these rules.

First, I would like to apologize to you for my delay in getting back to you. My schedule has been very busy and hope my delay has not caused you any problems. With respect to your specific examples:

- * A zinc oxide dust (a characteristic hazardous sludge) is sold to a facility where it is processed into zinc sulfate; the resulting zinc sulfate is then sold to bulk fertilizer blenders who use the zinc sulfate as an ingredient in fertilizers. The fertilizer is then sold to smaller distributors.

Under the example, the zinc oxide is processed to produce oxide sulfate (as this is described in the attachment to your letter). Under the rules,

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such activities do not normally constitute solid waste management. However, when the material (that is, the zinc oxide dust) is to be incorporated into a product that is placed on the land, we would define the entire recycling activity as "use constituting disposal."

Under the January 4 rules, all sludges that are hazardous (whether or not they are listed) are defined as wastes if they are placed directly on the land for beneficial use or incorporated into a product that is placed on the land for beneficial use. (See 40 CFR Part 261.2(c)(1) and Part 266 Subpart C; see also preamble discussion at 50 FR 627 and 646.) Therefore, the zinc oxide dust is subject to the hazardous waste regulations (i.e., the generator of the zinc oxide dust is subject to the requirements of Part 262, transporters of this dust are subject to the requirements of Part 263, and the facility that processes the zinc sulfate would be subject to the storage requirements of Parts 264 and 265). You should also be aware that if the zinc sulfate is hazardous (i.e., exhibits any of the characteristics of hazardous waste), it would also be subject to the hazardous waste regulations.

- * A characteristic hazardous sludge is generated from an air pollution control device. This sludge can be reclaimed to recover its copper content; in addition, any lead recovered can be produced into a low grade lead solder.

Under this scenario, the hazardous sludge would not be defined as a waste (and thus not be subject to the hazardous waste rules) as you have correctly indicated in your letter. In particular, under the January 4 rules, sludges that are reclaimed are only defined as solid and hazardous wastes if they are specifically listed; since the sludge is not listed (but is hazardous solely because it exhibits the characteristic of EP toxicity), the material is not defined as a solid waste. See 40 CFR Part 261.2(c)(3); see also preamble discussion at 50 FR 633. (This material may still be subject to regulation if it is accumulated speculatively.)

I hope this letter responds to your request. Please

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feel free to give me a call if you have any questions or comments. My telephone number is (202) 475-8551.

Sincerely yours,

Matthew A. Straus, Chief
Waste Identification Branch

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